

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2117**

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**Introduced by Assembly Member ~~Members~~ Gorell and Achadjian**

February 23, 2012

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An act to add Sections 13377.5 and 13378.5 to the Water Code, relating to water quality.

LEGISLATIVE COUNSEL’S DIGEST

AB 2117, as amended, ~~Achadjian~~ Gorell. Waste discharge requirements: ~~storm water~~. *stormwater*.

Under existing law, the State Water Resources Control Board (state board) and the California regional water quality control boards prescribe waste discharge requirements for the discharge of ~~storm water~~ *stormwater* in accordance with the federal national pollutant discharge elimination system (NPDES) permit program. Existing law requires the state board or the regional boards to issue waste discharge requirements which apply and ensure compliance with all applicable provisions of the Federal Water Pollution Control Act and any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

This bill would prohibit implementation of any new ~~storm water~~ *stormwater* effluent standards or limitations more stringent than the provisions of the Federal Water Pollution Control Act until January 1, 2017. This bill would require the state board, in consultation with affected stakeholders, to prepare a comprehensive statewide ~~storm water~~ *stormwater* plan, as prescribed, *if the United States Environmental*

*Protection Agency agrees to provide grant money to cover the costs and to submit it the plan to the Legislature by January 1, 2016.*

Existing law requires waste discharge requirements be adopted only after notice and any necessary hearing.

This bill would permit state board and regional board staff and members to discuss pending ~~storm-water~~ *stormwater* waste discharge requirements with affected parties so long as the discussion is publicly disclosed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) While ~~storm-water~~ *stormwater* represents a significant threat
- 3 to the water quality of California's rivers, lakes, and oceans, the
- 4 current storm water program is not addressing the full spectrum
- 5 of pollutants and does not represent a holistic approach to the issue.
- 6 (b) California's ~~storm-water~~ *stormwater* program has focused
- 7 on end-of-pipe regulation instead of a more balanced focus on area
- 8 sources. This focus on end-of-pipe regulation has resulted in a new
- 9 round of proposed waste discharge requirements with extremely
- 10 high implementation costs that do not represent an effective use
- 11 of resources by the wide range of individuals subject to ~~storm~~
- 12 ~~water~~ *stormwater* waste discharge requirement already suffering
- 13 from the down economy. At a time when local governments are
- 14 laying off police and fire personnel, school districts are closing
- 15 schools, university tuition is skyrocketing, and businesses are
- 16 stagnating, individuals are facing ten-fold increases in ~~storm-water~~
- 17 *stormwater* waste discharge requirement costs with individual
- 18 cities facing multimillion dollar yearly implementation costs. The
- 19 state's highway program would be severely impacted as well,
- 20 creating profound long-term implications for the economy.
- 21 Repeated testimony continues to state that there is minimal water
- 22 quality improvement from these costs.
- 23 (c) California's ~~storm-water~~ *stormwater* still does not integrate
- 24 the substantial contribution of area sources that remain beyond the
- 25 reach and control of individuals subject to ~~storm-water~~ *stormwater*
- 26 waste discharge requirements, including, but not limited to, the
- 27 storm water contributions from automotive brake pads. Despite

the fact that landmark legislation, SB 346, Chapter 307 of the Statutes of 2010, was passed to substantially reduce copper and other toxic constituents in brake pads over the next 20 years, California's ~~storm water~~ *stormwater* program does not factor in the need and progress to be made from these reductions. Instead, the program continues to expect individuals to somehow reduce pollutants, like automotive brake pads, over which the individual has no control and at a cost that could be in the billions of dollars and affect the basic core missions of California's institutions and businesses.

*(d) Stormwater represents a valuable potential water source for capture and use yet the current program, by placing sole emphasis on the constituent levels, may actually hinder the long-term prospects of stormwater reuse through public perception that stormwater is too polluted to ever reuse.*

~~(d)~~

*(e) It is necessary to limit the expansion of the ~~storm water~~ stormwater waste discharge requirements program beyond current federal requirements while the State Water Quality Control Board and stakeholders consider holistic changes necessary for the long-term solution to this problem.*

*(f) The Legislature finds that the United States Environmental Protection Agency (EPA) has actively supported California's stormwater program including proposed standards and requirements in excess of federal requirements as well as financial grants. The Legislature finds that to the extent that this program is derived from federal requirements and the EPA encourages California to innovate in stormwater management, the EPA should provide funds for comprehensive stormwater planning.*

SEC. 2. Section 13377.5 is added to the Water Code, to read:

13377.5. (a) Notwithstanding any other law, until January 1, 2017, the state board or any regional board shall not implement new ~~storm water~~ *stormwater* effluent standards or limitations more stringent than the provisions of the Federal Water Pollution Control Act.

(b) (1) The state board, in consultation with affected stakeholders, shall prepare a comprehensive statewide ~~storm water~~ *stormwater* plan and submit it to the Legislature by January 1, 2016. This plan shall consider the full spectrum of ~~storm water~~ *stormwater* constituents and contain recommendations for

1 necessary legislation to establish broad mechanisms to ensure that  
2 individuals subject to ~~storm water~~ *stormwater* waste discharge  
3 requirements do not have responsibility to remove constituents  
4 from their ~~storm water~~ *stormwater* discharge that they did not  
5 create and have no control over. *This plan shall also consider the*  
6 *costs and benefits of stormwater capture and reuse compared to*  
7 *the costs and benefits of stormwater discharge regulation.*

8 (2) The requirement for submitting a report imposed under  
9 paragraph (1) is inoperative on January 1, 2020, pursuant to Section  
10 10231.5 of the Government Code.

11 (3) A report to be submitted pursuant to paragraph (1) shall be  
12 submitted in compliance with Section 9795 of the Government  
13 Code.

14 (4) *The requirement to prepare a plan pursuant to this*  
15 *subdivision shall be subject to an agreement by the United States*  
16 *Environmental Protection Agency to provide grant money to cover*  
17 *the cost of preparing the plan.*

18 SEC. 3. Section 13378.5 is added to the Water Code, to read:

19 13378.5. Notwithstanding any other law, the staff and members  
20 of the state board or a regional board may discuss pending storm  
21 water waste discharge requirements with affected parties so long  
22 as the discussion is publicly disclosed.